

Message Text

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ORIGIN EB-07

INFO OCT-01 ISO-00 AF-04 ARA-06 EA-06 EUR-12 NEA-06 RSC-01

IO-10 FEA-01 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00

FRB-01 H-01 INR-07 INT-05 L-02 LAB-04 NSAE-00 NSC-05

PA-01 AID-05 CIEP-01 SS-15 STR-01 TAR-01 TRSE-00

USIA-06 PRS-01 SP-02 OMB-01 OIC-02 SNM-02 /123 R

DRAFTED BY EB/OT/GCP:DJDUNFORD:DI

APPROVED BY EB/ITP:CWSCHMIDT

ARA/ECP:MDAVILA

L/EB:SBOND

NEA:RSEARING

AF/EP:RLOMBARDI

EA/EP:AGEBER

EUR/RPE:JAUBERT

EB:JLKATZ

STR:SLANDE

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P 280034Z DEC 74

FM SECSTATE WASHDC

TO ALL DIPLOMATIC AND CONSULAR POSTS PRIORITY

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INFORM CONSULS

E.O. 11652: N/A

TAGS: ETRD

SUBJECT: TRADE ACT OF 1974--GENERALIZED SYSTEM OF
PREFERENCES (GSP)

REFS: A) STATE 297785; B) CARACAS 12660;

C) BELGRADE 6441; D) JAKARTA 15315

1. TITLE V OF THE TRADE ACT OF 1974, EXPECTED TO BE
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SIGNED INTO LAW SHORTLY BY PRESIDENT FORD, CONTAINS
AUTHORITY TO GRANT GENERALIZED TARIFF PREFERENCES (GSP).
FULL TEXT OF TITLE V IS BEING TRANSMITTED BY SEPTTEL. THIS
CABLE PROVIDES GUIDANCE ON IMPLEMENTATION PROCEDURES AND

INTERPRETATION OF THE LEGISLATION AND RESPONDS TO REQUESTS
CONTAINED IN REFS B THROUGH D.

2. BEFORE GSP CAN BE IMPLEMENTED, THE INTERNATIONAL
TRADE COMMISSION (NEW NAME FOR TARIFF COMMISSION) MUST
INVESTIGATE ALL ARTICLES PROPOSED FOR PREFERENTIAL
DUTY-FREE TARIFF TREATMENT AND THEN MAKE RECOMMENDATIONS
TO THE PRESIDENT AS TO THE EFFECT ON DOMESTIC PRODUCERS OF
PREFERENCES ON SPECIFIC ARTICLES. BEFORE THIS PROCESS,
WHICH CAN TAKE NO LONGER THAN SIX MONTHS, CAN BEGIN, THE
TRADE ACT REQUIRES THAT AN EXECUTIVE ORDER MUST BE ISSUED
DESIGNATING BENEFICIARY COUNTRIES. BEFORE IT IS ISSUED,
THE ACT REQUIRES PRESIDENTIAL NOTIFICATION TO CONGRESS
OF DEVELOPING COUNTRIES TO BE DESIGNATED AS BENEFICIARIES
TOGETHER WITH THE CONSIDERATIONS ENTERING INTO HIS
DECISION. WASHINGTON AGENCIES ARE AGREED THAT PROCEDURES
SHOULD BE SET IN MOTION AS SOON AS POSSIBLE SO THAT
FURTHER DELAYS IN IMPLEMENTING GSP CAN BE AVOIDED.

3. THE ADMINISTRATION PRESENTLY CONTEMPLATES THAT AN
EXECUTIVE ORDER TO BE ISSUED IN EARLY JANUARY WILL
INCLUDE (A) DESIGNATIONS OF ALL COUNTRIES WHICH CAN NOW
BE DETERMINED AS ELIGIBLE, AND (B) A LIST OF COUNTRIES
WHICH CANNOT NOW BE DESIGNATED BUT COULD BE DESIGNATED
AT A LATER DATE IF THE STATUTORY CONDITIONS ARE MET. THE
LATTER LIST WOULD INCLUDE MEDITERRANEAN COUNTRIES WHICH
GRANT PREFERENCES TO THE EUROPEAN COMMUNITY WHICH MAY
SIGNIFICANTLY AFFECT OUR TRADE (CYPRUS, GREECE, ISRAEL,
PORTUGAL, SPAIN AND TURKEY), OPEC MEMBER COUNTRIES
(ALGERIA, ECUADOR, INDONESIA, IRAN, IRAQ, KUWAIT, LIBYA,
NIGERIA, QATAR, SAUDI ARABIA, VENEZUELA AND THE UNITED
ARAB EMIRATES) ROMANIA AND POSSIBLY HONG KONG.
(ROMANIA WOULD NOT BECOME ELIGIBLE FOR GSP UNTIL IT
RECEIVES MFN. THE QUESTION OF HONG KONG'S ELIGIBILITY
HAS NOT YET BEEN RESOLVED.)

4. IN ORDER TO INCLUDE THE MAXIMUM NUMBER OF COUNTRIES
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IN THE FIRST LIST, WE TENTATIVELY PLAN FOR THE TIME
BEING TO WAIVE THE EXPROPRIATION, NARCOTICS TRAFFIC AND
ARBITRAL AWARD PROVISIONS FOR ALL COUNTRIES ON GROUNDS THAT
IT WOULD BE IN THE NATIONAL ECONOMIC INTEREST TO DO SO IN
ORDER TO ALLOW THE INTERNATIONAL TRADE COMMISSION TO
CARRY OUT A FULL INVESTIGATION BASED ON ALL POTENTIAL
BENEFICIARIES. TO SINGLE OUT COUNTRIES FOR NON-
DESIGNATION BEFORE SUFFICIENT INFORMATION IS AVAILABLE
AND IS TAKEN INTO ACCOUNT WOULD BE PREJUDICIAL TO THESE
COUNTRIES AND WOULD NOT FACILITATE THE ATTAINMENT OF THE
OBJECTIVES OF THE TRADE ACT. FINAL DETERMINATIONS ON
THE BASIS OF THESE PROVISIONS WOULD HAVE TO BE MADE

BEFORE GSP IS ACTUALLY IMPLEMENTED. THIS PROPOSED PROCEDURE WOULD BE OUTLINED IN IDENTICAL LETTERS FROM THE PRESIDENT TO BOTH HOUSES OF CONGRESS BUT WOULD NOT REPEAT NOT BE MADE PUBLIC UNTIL SUBSTANCE HAS BEEN REVIEWED WITH CONGRESS.

5. PROVISION ON OPEC AND OTHER CARTELS - PROVISIONS ON OPEC AND OTHER CARTEL MEMBERS PROPOSED BY SENATE FINANCE COMMITTEE WERE COMBINED INTO ONE BY THE HOUSE-SENATE CONFERENCE. IN THE LANGUAGE OF THE CONFERENCE

MANAGER'S REPORT, "THE PURPOSE OF THE PROVISION IS TO DENY TARIFF PREFERENCES TO OPEC MEMBERS OR OTHER CARTEL COUNTRIES WHICH CAUSE SERIOUS DISRUPTION OF THE WORLD ECONOMY". PRELIMINARY READING HERE IS THAT ALL OPEC MEMBER COUNTRIES FALL INTO THIS CATEGORY BUT THAT NO OTHER CARTEL MEMBERS CURRENTLY MEET THIS DESCRIPTION. SECTION 502(E) PROVIDES THAT OPEC COUNTRIES (AND OTHER CARTEL MEMBERS) CAN QUALIFY FOR GSP EXPLICITLY BY ENTERING INTO AN AGREEMENT (BILATERAL OR MULTILATERAL) WHICH ASSURES THE U.S. FAIR AND REASONABLE ACCESS TO SUPPLIES "AT REASONABLE PRICES", OR IMPLICITLY BY ACTIVELY BREAKING RANKS WITH OTHER OPEC MEMBERS ON QUESTIONS OF PRICING AND SUPPLY EMBARGOES.

6. AS POSTS ARE ALREADY AWARE, THE ADMINISTRATION OPPOSED THE MANDATORY EXCLUSION OF ALL OPEC COUNTRIES FROM GSP, AS EVIDENCED BY SECRETARY KISSINGER'S TESTIMONY BEFORE SENATE FINANCE COMMITTEE ON DECEMBER 3.
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ALTHOUGH IT APPEARS MOST UNLIKELY UNDER PRESENT CIRCUMSTANCES THAT WE WILL BE ABLE TO DESIGNATE OPEC MEMBER COUNTRIES AS ELIGIBLE TO RECEIVE GSP, WE ARE CONTINUING TO EXAMINE WHAT POSSIBILITIES MAY EXIST UNDER THE LAW. WE EXPECT THAT WE WILL NOT BE REQUIRED TO MAKE DEFINITIVE DECISION REGARDING ELIGIBILITY FOR THESE COUNTRIES UNTIL INTERNATIONAL TRADE COMMISSION REVIEW IS COMPLETED, I.E., SIX MONTHS FROM NOW. IN ALL CANDOR, HOWEVER, WE CANNOT HOLD OUT MUCH HOPE THAT MEMBER COUNTRIES OF OPEC WILL BE ELIGIBLE UNDER PRESENT CIRCUMSTANCES.

7. PROVISIONS ON NARCOTICS TRAFFIC AND INTERNATIONAL ARBITRATION - OUR PRELIMINARY READING IS THAT NO COUNTRY WOULD CURRENTLY BE DISQUALIFIED BY LANGUAGE ON NARCOTICS TRAFFIC. LEGISLATIVE HISTORY INDICATES THAT INDIA AND JAMAICA MAY BE AFFECTED BY LANGUAGE ON INTERNATIONAL ARBITRATION. POSTS IN THESE COUNTRIES WHICH HAVE NOT ALREADY DONE SO SHOULD PROVIDE INFORMATION ON RELEVANT SITUATIONS.

8. NATIONALIZATION PROVISION - UNDER THIS PROVISION (SECTION 502(B)(4)) QUESTIONS ARE RAISED WITH RESPECT TO A NUMBER OF COUNTRIES. SEPARATE INSTRUCTIONS WILL FOLLOW TO POSTS IN SUCH COUNTRIES.

9. REVERSE PREFERENCE PROVISION (FOR NICOSIA, ATHENS, TEL AVIV, LISBON, MADRID AND ANKARA) - IN RESPONSE TO INQUIRIES, POSTS SHOULD DRAW ATTENTION OF HOST GOVERNMENTS TO ASSURANCES REQUIRED BY SECTION 502(B)(3). IN MAKING SUCH APPROACHES, YOU SHOULD NOT IMPLY THAT IT HAS BEEN DECIDED WHETHER SECTION 502(B)(3) APPLIES (I.E., THAT THE PREFERENTIAL TREATMENT GRANTED TO THE EC "HAS, OR IS LIKELY TO HAVE, A SIGNIFICANT ADVERSE EFFECT ON UNITED STATES COMMERCE") OR THAT THESE COUNTRIES WOULD MEET ALL OTHER CONDITIONS OF THE TITLE.

10. SECTION 502(C) PROVIDES THAT WHEN DESIGNATING BENEFICIARY DEVELOPING COUNTRIES, THE PRESIDENT SHOULD TAKE INTO ACCOUNT INTER ALIA "AN EXPRESSION BY SUCH COUNTRY OF ITS DESIRE TO BE SO DESIGNATED" AND "THE EXTENT TO WHICH LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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SUCH COUNTRY HAS ASSURED THE U.S. IT WILL PROVIDE EQUITABLE AND REASONABLE ACCESS TO THE MARKETS AND BASIC COMMODITY RESOURCES OF SUCH COUNTRY". EXCEPT AS NOTED IN PARAGRAPHS 11 AND 12, DIPLOMATIC ADDRESSEES SHOULD, UPON ENACTMENT OF THE BILL, APPROACH GOVERNMENTS TO WHICH YOU ARE ACCREDITED AND DRAW ATTENTION TO THESE PROVISIONS. THE FORM OF PROPOSED RESPONSES, IF ANY, SHOULD BE LEFT TO HOST GOVERNMENTS. FOR GENEVA: PLEASE OBTAIN FROM UNCTAD SECRETARIAT AND SEND SOONEST LIST OF COUNTRIES WHICH HAVE REQUESTED, THROUGH THE UNCTAD, BENEFICIARY STATUS IN THE VARIOUS SYSTEMS OF GENERALIZED TARIFF PREFERENCES.

11. SECTION 502(B) CONTAINS A LIST OF DEVELOPED COUNTRIES WHICH MAY NOT RPT NOT BE DESIGNATED BENEFICIARY DEVELOPING COUNTRIES. NO APPROACH SHOULD BE MADE TO GOVERNMENTS OF THESE COUNTRIES UNLESS THEY ARE RESPONSIBLE FOR THE EXTERNAL RELATIONS OF ONE OR MORE OF THE FOLLOWING TERRITORIES:

AFARS AND ISSAS (TERRITORY OF THE)

ANGOLA (INCLUDING CABINDA)

AUSTRALIAN ANTARCTIC TERRITORY

BELIZE

BERMUDA

BRITISH ANTARCTIC TERRITORY

BRITISH INDIAN OCEAN TERRITORY (ALDABRA, FARQUHAR,
CHAGOS ARCHIPELAGO, DES ROCHES)

BRITISH PACIFIC OCEAN (GILBERT AND ELLICE ISLANDS,
BRITISH SOLOMON ISLANDS, PITCAIRN ISLANDS)

BRUNEI

CAPE VERDE ISLANDS

CAYMAN ISLANDS AND DEPENDENCIES
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CHRISTMAS ISLAND

CLIPPERTON ISLAND

COCOS OR KEELING ISLANDS

COMORO ARCHIPELAGO

COOK ISLANDS

CORN ISLANDS AND SWAN ISLANDS

FALKLAND ISLANDS (MALVINAS) AND DEPENDENCIES

FRENCH POLYNESIA

FRENCH SOUTHERN AND ANTARCTIC TERRITORIES

GIBRALTAR

HEARD ISLAND AND MCDONALD ISLANDS

HONG KONG

MACAO

MOZAMBIQUE

NETHERLAND ANTILLES

NEW CALEDONIA AND DEPENDENCIES

NEW HEBRIDES CONDOMINIUM

NORFOLK ISLANDS

PORTUGUESE TIMOR

ST. HELENA (INCLUDING ASCENSION, GOUGH ISLAND AND
TRISTAN DA CUNHA)
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SAINT PIERRE AND MIQUELON

SAO TOME AND PRINCIPE

SEYCHELLES (INCLUDING AMIRANTES)

SIKKIM

SPANISH NORTH AFRICA: SAHARA (RIO DE ORO)
SAGHIET-EL-HAMRA

SURINAM

TERRITORIES FOR WHICH NEW ZEALAND IS RESPONSIBLE
(COOK ISLANDS, NIUWE ISLAND, TOKELAU ISLANDS AND
ROSS DEPENDENCY)

TURKS AND CAICOS ISLANDS

WALLIS AND FUTUNA ISLANDS

WEST INDIES - LEEWARD ISLANDS (ANTIGUA, MONTSERRAT,
ST. KITTS-NEVIS-ANGUILLA, AND BRITISH VIRGIN ISLANDS)
AND WINDWARD ISLANDS (DOMINICA, ST. LUCIA, AND
ST. VINCENT)

GOVERNMENTS RESPONSIBLE FOR THE EXTERNAL RELATIONS OF
ONE OR MORE OF THE ABOVE TERRITORIES SHOULD BE
APPROACHED ALONG LINES REQUESTED IN PARAGRAPH 10 ABOVE.

12. APPROACHES SHOULD NOT REPEAT NOT BE MADE TO OPEC
MEMBER COUNTRIES OR TO COMMUNIST COUNTRIES OTHER THAN
ROMANIA AND YUGOSLAVIA AT THIS TIME SINCE ALL COUNTRIES
"DOMINATED OR CONTROLLED BY INTERNATIONAL COMMUNISM"
ARE MANDATORILY EXCLUDED (SECTION 502(B)(1)). FOR
HONG KONG: DO NOT APPROACH HKG UNTIL RECEIPT
OF FURTHER INSTRUCTIONS. FOR BUCHAREST: YOU MAY
CONTINUE TO KEEP GOR INFORMED BUT SHOULD MAKE IT CLEAR
THAT WE ARE NOT FORMALLY APPROACHING IT UNTIL MFN
TREATMENT IS NEGOTIATED.
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13. TREATMENT OF ASSOCIATION OF COUNTRIES AS ONE (SECTION 502(A)(3)) -- WE DO NOT ANTICIPATE THAT GROUPS OF COUNTRIES WILL WISH TO OPT FOR TREATMENT AS ONE COUNTRY SINCE DISADVANTAGES OF BOTH A MORE STRINGENT VALUE-ADDED REQUIREMENT (SECTION 503(B)) AND MORE RAPID TRIGGERING OF THE COMPETITIVE NEED CEILINGS (SECTION 504(C)) WILL PROBABLY OUTWEIGH ADVANTAGES OF AGGREGATION. USG DOES NOT INTEND TO CONSIDER TREATMENT OF ASSOCIATION OF COUNTRIES AS ONE COUNTRY, UNLESS MEMBERS OF ASSOCIATION SO REQUEST. POSTS AS APPROPRIATE SHOULD, HOWEVER, POINT OUT TO HOST GOVERNMENTS THAT THIS OPTION EXISTS.

14. ELIGIBLE ARTICLES -- INTERAGENCY PREPARATION OF PRODUCT LISTS FOR SUBMISSION TO THE INTERNATIONAL TRADE COMMISSION HAS NEARLY BEEN COMPLETED. ALL MANUFACTURES AND SEMI-MANUFACTURES WILL PROBABLY BE SUBMITTED EXCEPT TEXTILES, FOOTWEAR, STEEL ITEMS CURRENTLY UNDER VOLUNTARY RESTRAINT ARRANGEMENTS, WATCHES AND ITEMS SUBJECT TO ESCAPE CLAUSE AND NATIONAL SECURITY PROVISIONS. GLASS AND GLASSWARE AND ELECTRONICS ITEMS WOULD BE FLAGGED FOR SPECIAL ATTENTION BY THE INTERNATIONAL TRADE COMMISSION BECAUSE OF THE LEGISLATIVE REQUIREMENT TO EXCLUDE IMPORT-SENSITIVE ITEMS IN THESE CATEGORIES. THE SELECTED LISTS OF AGRICULTURAL AND PRIMARY INDUSTRIAL PRODUCTS WILL BE SIGNIFICANTLY LARGER IN TERMS BOTH OF NUMBERS OF ITEMS AND DOLLAR TRADE COVERAGE THAN THE ILLUSTRATIVE LISTS PREPARED FOR OECD AND UNCTAD EXERCISES IN 1970 AND WILL REFLECT SUGGESTIONS MADE BY MANY COUNTRIES PARTICULARLY THOSE OF LATIN AMERICA.

15. WHEN MAKING APPROACHES SUGGESTED ABOVE, POSTS SHOULD DRAW ON PARAS 12-18 OF REFTTEL A AND STRESS IN PARTICULAR (A) OUR HOPE THAT, AS NO COUNTRY IS DEFINITELY EXCLUDED FROM GSP UNDER ITS PROVISIONS, DEVELOPING COUNTRIES WILL EVENTUALLY BE ABLE TO BENEFIT FROM GSP AND (B) OUR DESIRE TO WORK CLOSELY WITH DEVELOPING COUNTRIES IN THE MULTILATERAL TRADE NEGOTIATIONS TO ACHIEVE THE OBJECTIVES OF THE TOKYO DECLARATION. BROWN

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Message Attributes

Automatic Decaptioning: X
Capture Date: 27 JUL 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TRADE LAW, GENERALIZED PREFERENCES (TARIFFS)
Control Number: n/a
Copy: SINGLE
Draft Date: 28 DEC 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE282967
Document Source: ADS
Document Unique ID: 00
Drafter: EB/OT/GCP:DJDUNFORD:DI
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: D740376-0551
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741276/abbrzags.tel
Line Count: 365
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: A) STATE 297785; B) CARACAS 12660; C) BELGRADE 6441; D) JAKARTA 15315
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 20 MAY 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <20 MAY 2002 by elyme>; APPROVED <30 DEC 2002 by MorefiRH>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: TRADE ACT OF 1974--GENERALIZED SYSTEM OF PREFERENCES (GSP)
TAGS: ETRD, US
To: ALL DIPLOMATIC AND CONSULAR POSTS
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005